

**AN ORDINANCE RELATING TO PRIVATE INSPECTION OF CERTAIN  
RESIDENTIAL CONSTRUCTION WORK; AMENDING THE CITY OF EL PASO  
MUNICIPAL CODE AND ADOPTING ADDITIONAL LOCAL AMENDMENTS TO  
THE INTERNATIONAL RESIDENTIAL CODE FOR ONE-AND TWO-FAMILY  
DWELLINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE  
FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY.**

**WHEREAS**, the 77<sup>th</sup> Legislature, Regular Session (2001), adopted Subchapter G of Chapter 214 of the Texas Local Government Code, which became effective January 1, 2002, and made the International Residential Code as it existed on May 1, 2001, a statewide code for certain residential structures; and

**WHEREAS**, Section 214.212 (c) of the Texas Local Government Code allows municipalities to adopt certain local amendments and local administrative and enforcement provisions for the International Residential Code, and the El Paso City Council has already adopted limited amendments for that purpose; and

**WHEREAS**, the Mayor and City Council of the City of El Paso desires to amend Section 18 of the Municipal Code and adopt additional local provision for the administration of the International Residential Code as authorized by the state law to authorize the implementation of a program allowing the conduct of plan reviews and certain inspections by qualified private inspectors relative to residential structures, only: NOW, THEREFORE,

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That the existing amendments to the 2000 International Residential Code for One- and Two-Family Dwellings, as currently adopted in Section 18 of the Municipal Code, as previously amended, are hereby further amended by adding the following, to be codified with existing sections and/or amendments, reading as follows:

**PRIVATE INSPECTION SERVICES**

**Applicability.** The application of this section is limited to structures that are constructed under this Code.

**Scope.** This section applies to any permit required under this Code, the Electrical Code, Plumbing Code, or the Mechanical Code for the construction, repair, or renovation of a structure to which this Code applies.

**Program Established.** The building official will establish a third party inspection program under which qualified persons who are not employees of the City of El Paso may review plans, conduct building inspections, and provide related services for structures to which this section applies. The program shall be conducted in accordance with regulation and forms promulgated by the building official, which shall, without limitation, address the following:

1. Qualifications of the firms and individuals who shall perform plan reviews, conduct inspections, and provide other related permit services. The qualifications shall include licensing in accordance with any applicable laws and regulations and certification in accordance with state or federally recognized standards.
2. Requirement of appropriate liability coverages in an amount of not less than \$1,000,000, per occurrence, with indemnity agreements and coverage of the jurisdiction, as an additional insured, for the protection of the jurisdiction and other persons who may be affected by the performance of the inspections services.
3. Provisions to ensure that the private inspectors will act independently of building owners, contractors, and others so as to avoid conflicts of interest.
4. Provisions for the review of plans and issuance of permits to applicants who desire private inspection under this section.
5. Records provisions, including reports that are required to be filed with the building official and records that are to be retained for inspection upon request of the building official or members of the public.
6. Administrative provisions for the acceptance, suspension, and revocation of privileges under this section to private inspectors and inspection firms, which shall include elements of due process, including a right of appeal to a hearing officer designated by the director of public works and engineering. Notwithstanding any other provision of this Code, the decision of the hearing officer shall be final and may not be appealed.
7. Provisions to ensure that no private inspector may be certified to participate in the program unless qualified to conduct plan reviews and/or inspections under the Codes currently enforced by the jurisdiction and/or a nationally recognized uniform or international code regulating the trade or skill practiced by the private inspector.
8. All fees charged by any private inspector or inspection service company for services rendered under the program shall be paid by the party hiring the private inspector directly to the jurisdiction and remitted by the building inspector upon certification that the services have been rendered.
9. Provisions prohibiting any developer, builder or contractor from employing one third party inspection firm or inspector for more than 25% of that developer, builder or contractor's residential inspection requirements in any one year.

10. Provisions requiring the Building Official to file a report with the Mayor and City Council, beginning at the end of the first six (6) month period following the inception of the private inspector program and continuing at six (6) month intervals thereafter, detailing for each reporting period the following information:

- a. A listing of the names of all companies or contractors hiring third-party inspectors or firms for inspections and/or plan reviews and the names of each third party inspection firms so hired.
- b. Names of all private inspection firms approved to conduct inspections and/or plan reviews.
- c. Total number of plan reviews and private inspections performed by third-party inspectors or firms on each residential construction project and the names of each client for whom the services were provided.
- d. Number of City re-inspections conducted for each third party inspector and the percentage of the inspector's work so inspected.
- e. The number of Code violations found through re-inspections, including the nature of each violation and the name of the private inspector who approved the work.
- f. A list of any inspectors that have been removed from the program by the Building Official.

The Building Official may include in the report such additional information as he may deem appropriate relating to the private inspector program.

11. Provisions prohibiting any private inspector from being related to owners, contractors, and other similarly situated individuals or entities within the third degree of consanguinity or within the second degree of affinity.

**Oversight Inspections.** The provisions of this section do not affect the jurisdiction of the building official over any work or preclude oversight inspections by the building official of structures that are subject to private inspection. For purposes of quality assurance, the building official shall be authorized to recheck plans, perform inspections or re-inspections, issue stop work orders, and take any and all actions that are authorized to be taken under this Code, the Electrical Code, the Plumbing Code, or the Mechanical Code. No prior notice be provided to the private inspector, contractor, or owner, unless otherwise required by law.

**Fees.** To cover administrative costs and oversight inspections, the building official shall assess fees equal to 75 percent of the amount otherwise payable under this code for any permit, but not less than the minimum fee as required under the Building Code. This amount shall reduce by 25 percent in each fiscal year for the City of El Paso until the maximum assessed fee shall be established at 25 percent. For private plumbing inspections the building official shall assess

fees equal to 75 percent of the amount otherwise payable under the code for a plumbing permit, but not less than the minimum fee as required in the Plumbing Code, plus the fees charged by the private plumbing inspections company. This amount shall reduce by 25 percent in each fiscal year for the City of El Paso until the maximum assessed fee shall be established at 25 percent. If any contractor or owner requests an inspection by the building official of any structure that is subject to a private inspection under this section, then the building official may perform the same for a fee of \$100.00. The administrative fee that is payable under the Building Code shall be collected in addition to the fees otherwise provided under this section.

**Section 3.** That the City of El Paso Municipal Code, and any and all Ordinances authorizing same are codified by adding this additional section that reads as follows:

### **PRIVATE INSPECTION SERVICES**

**Applicability.** The application of this section is limited to those occupancy structures that constitute dwellings with the definitions of the Code, and to other structures associated with those dwellings, such as garages, carports, fences and other similar structures.

**Scope.** This section applies to any permit required under the Building Code, the Electrical Code, Plumbing Code, or the Mechanical Code for the construction, repair, or renovation of a dwelling structure to which this section applies.

**Program Established.** The building official will establish a third party inspection program under which qualified persons who are not employees of the City of El Paso may review plans, conduct building inspections, and provide related services for structures to which this section applies. The program shall be conducted in accordance with regulations and forms promulgated by the building official, which shall, without limitation, address the following:

1. Qualifications of the firms and individuals who shall perform plan reviews, conduct inspections, and provide other related permit services. The qualifications shall include licensing in accordance with any applicable laws and regulations and certification in accordance with state or federally recognized standards.
2. Requirement of appropriate liability coverages in an amount of not less than \$1,000,000, per occurrence, with indemnity agreements and coverage of the jurisdiction, as an additional insured, for the protection of the jurisdiction and other persons who may be affected by the performance of the inspections services.
3. Provisions to ensure that the private inspectors will act independently of building owners, contractors, and others so as to avoid conflicts of interest.

4. Provisions for the review of plans and issuance of permits to applicants who desire private inspection under this section.
5. Records provisions, including reports that are required to be filed with the building official and records that are to be retained for inspection upon request of the building official or members of the public.
6. Administrative provisions for the acceptance, suspension, and revocation of privileges under this section to private inspectors and inspection firms, which shall include elements of due process, including a right of appeal to a hearing officer designated by the director of public works and engineering. Notwithstanding any other provision of this Code, the decision of the hearing officer shall be final and may not be appealed.
7. Provisions to ensure that no private inspector may be certified to participate in the program unless qualified to conduct plan reviews and/or inspections under the Codes currently enforced by the jurisdiction and/or a nationally recognized uniform or international code regulating the trade or skill practiced by the private inspector.
8. All fees charged by any private inspector or inspection service company for services rendered under the program shall be paid by the party hiring the private inspector directly to the jurisdiction and remitted by the building inspector upon certification that the services have been rendered.
9. Provisions prohibiting any developer, builder or contractor from employing one third party inspection firm or inspector for more than 25% of that developer, builder or contractor's residential inspection requirements in any one year.
10. Provisions requiring the Building Official to file a report with the Mayor and City Council, beginning at the end of the first six (6) month period following the inception of the private inspector program and continuing at six (6) month intervals thereafter, detailing for each reporting period the following information:
  - a. A listing of the names of all companies or contractors hiring third-party inspectors or firms for inspections and/or plan reviews and the names of each third party inspection firms so hired.
  - b. Names of all private inspection firms approved to conduct inspections and/or plan reviews.
  - c. Total number of plan reviews and private inspections performed by third-party inspectors or firms on each residential construction project and the names of each client for whom the services were provided.
  - d. Number of City re-inspections conducted for each third party inspector and the percentage of the inspector's work so inspected.

- e. The number of Code violations found through re-inspections, including the nature of each violation and the name of the private inspector who approved the work.
- f. A list of any inspectors that have been removed from the program by the Building Official.

The Building Official may include in the report such additional information as he may deem appropriate relating to the private inspector program.

- 11. Provisions prohibiting any private inspector from being related to owners, contractors, and other similarly situated individuals or entities within the third degree of consanguinity or within the second degree of affinity.

**Oversight inspections.** The provisions of this section do not affect the jurisdiction of the building official over any work or preclude oversight inspections by the building official of structures that are subject to private inspection. For purposes of quality assurance, the building official shall be authorized to recheck plans, perform inspections or re-inspections, issue stop work orders, and take any and all actions that are taken under the Building Code, the Electrical Code, the Plumbing Code, or the Mechanical Code. No prior notice need be provided to the private inspector, contractor, or owner, unless otherwise required by law.

**Fees.** To cover administrative costs and oversight inspections, the building official shall assess fees equal to 75 percent of the amount otherwise payable under this code for any permit, but not less than the minimum fee as required under the Building Code. This amount shall reduce by 25 percent in each fiscal year for the City of El Paso until the maximum assessed fee shall be established at 25 percent. For private plumbing inspections the building official shall assess fees equal to 75 percent of the amount otherwise payable under the code for a plumbing permit, but not less than the minimum fee as required in the Plumbing Code, plus the fees charged by the private plumbing inspections company. This amount shall reduce by 25 percent in each fiscal year for the City of El Paso until the maximum assessed fee shall be established at 25 percent. If any contractor or owner requests an inspection by the building official of any structure that is subject to a private inspection under this section, then the building official may perform the same for a fee of \$100.00. The administrative fee that is payable under the Building Code shall be collected in addition to the fees otherwise provided under this section.

**Section 4.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Mayor and City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by

reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.**

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.**